

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DAMEKA DOWDY, JEFFREY HUNTER, SEAN
MILAN, JOEL PURSER, SANDRA CASTRO, CECELIA
ROJAS, KEVON CHISHOLM, RICHARD ORTEGA,
MARISOL CONCEPCION, ROBERT TABON,
RASHEEN ODOM, CARMELITA GORDON-
FLEETWOOD, and RAYMOND PACHECO,
On behalf of themselves and all others similarly situated,

Plaintiffs,

-against-

THE CITY OF NEW YORK, NEW YORK CITY
DEPARTMENT OF SANITATION,

Defendants.
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**NOTICE OF MOTION TO
DISMISS THE FIRST
AMENDED CLASS
ACTION COMPLAINT**

22 Civ. 6284 (ALC)

PLEASE TAKE NOTICE that upon the accompanying Declaration of Assistant Corporation Counsel Soo-Young Shin, dated February 14, 2023, and the exhibits annexed thereto, and the accompanying Memorandum of Law dated February 14, 2023, and all the papers and proceedings heretofore had herein, defendants will move this Court, before the Honorable Andrew L. Carter, Jr., United States District Judge, Southern District of New York, at the United States Courthouse located at 40 Foley Square, New York, New York, 10007, on a date and time to be designated by the Court, for an order and judgment, pursuant to Rule 12(b) of the Federal Rules of Civil Procedure dismissing plaintiffs' First Amended Class Action Complaint in its entirety on the grounds that plaintiffs lack standing to bring this action and otherwise fail to state a claim on which relief may be granted.

PLEASE TAKE FURTHER NOTICE that, pursuant to the Court's order dated December 16, 2022, ECF Dkt. No. 18, opposition papers, if any, must be served by March 16, 2023, and defendants' reply must be served by March 30, 2023.

PLEASE TAKE FURTHER NOTICE that defendants also request, pursuant to Fed. R. Civ. P.26(c), a stay of discovery pending the outcome of defendants’ motion to dismiss. *See Farzan v. Bridgewater Assocs., LP*, 699 F. App’x 57, 58 (2d Cir. 2017) (finding “ample reason to stay discovery in light of Appellant’s history of similar litigation and the low likelihood that the case would move past the motion to dismiss stage”); *Wills v. Amerada Hess Corp.*, 379 F.3d 32, 41 (2d Cir. 2004) (District courts have “broad discretion to direct and manage the pre-trial discovery process.”); *D.L. Cromwell Invs., Inc. v. NASD Regulation, Inc.*, No. 02 civ. 3823 (LAK), 2002 U.S. Dist. LEXIS 11937 (S.D.N.Y. July 1, 2002) (discovery stayed pending defendants’ motion stay discovery pending determination of motion to dismiss, noting that “there is substantial reason, even at this early stage, to believe that defendant is entirely correct in suggesting that this action is frivolous and, indeed, a bad faith attempt to circumvent prior rulings . . .”).

Date: New York, New York
February 14, 2023

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By: /s/ Soo-Young Shin
Soo-Young Shin
Assistant Corporation Counsel

By: /s/ Angela Wanslow
Angela Wanslow
Assistant Corporation Counsel

TO: **Philip Seelig, Esq. (By ECF)**
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Matter No.: 2022-044833

Due and timely service is hereby admitted.

New York, N.Y., 2023

Attorney for